## **SECTION .0200 - APPLICATION PROCESS**

# 15A NCAC 07J .0201 PERMIT REQUIRED

After March 1, 1978, every person wishing to undertake any development in an area of environmental concern shall obtain a permit from the Department, in the case of a major development or dredge and fill permit, or from the local permit officer, in the case of a minor development permit, unless such development is exempted by the Commission.

History Note: Authority G.S. 113-229; 113A-118; 113A-124;

Eff. March 15, 1978;

Amended Eff. November 1, 1984.

#### 15A NCAC 07J .0202 PERMIT APPLICATIONS

- (a) Any person seeking to obtain a permit for a major development and/or dredge and fill project is required to file with the Department an application completed in accordance with 15A NCAC 7J .0204(b)(1) through (7).
- (b) Any person seeking to obtain a permit for a minor development project is required to file with the local permit officer a completed application form as adopted and approved by the Coastal Resources Commission and in accordance with the minor permit provisions in 15A NCAC 7J .0204.
- (c) Regardless of whether any advice or information was provided by other persons, including department officials, the applicant is responsible for the accuracy and completeness of the information provided in the application.

History Note: Authority G.S. 113-229; 113A-119; 113A-124(b);

Eff. March 15, 1978;

Amended Eff. December 1, 1985; May 1, 1985; November 1, 1984; November 1, 1983.

## 15A NCAC 07J .0203 PREPARATION OF WORK PLATS

- (a) General. Project plans or work plats must include a top or planview, a cross-sectional view, and a location map. All plats must have the standard north arrow. North should be at the top of the plat. The prints must be neat and sufficiently clear to permit photographic reproduction. Originals are preferred as copies are often found to be unacceptable. The applicant should use as few sheets as necessary to show clearly what is proposed. Work plats must be accurately drawn to scale. A scale of 1" = 200' or less is normally required in order that project detail can be easily understood.
- (b) Details of Work Plats
  - (1) Topview or Planview Plats. Such drawings must show existing and proposed features such as dune systems, shorelines, creeks, marshlands, docks, piers, bulkheads, excavated areas, fill areas, type and location of sewage treatment facilities and effluent outlets. Existing water depths must be indicated using mean low water as base or zero. These can be shown either as contours or spot elevation. Care should be used in indicating which features are existing and which are proposed. Property boundaries, as they appear on the deed, and the names of adjacent property owners must be shown on the detailed plat. The work plat must clearly show any areas to be excavated and exact locality for disposal of the excavated material. When fill material is to be placed behind a bulkhead or dike, the plan must be sufficiently detailed to show the exact location of such bulkheads or dikes, and the adequacy of the bulkhead or dike to confine the material. Drawings must indicate approximate mean low and mean high water lines and the presence of marsh in the area of proposed work. In areas where the difference in daily low and high tides is less than six inches, only an average water level must be indicated.
  - (2) Cross-Section Drawing. A cross-sectional diagram showing depth and elevation of proposed work relative to existing ground level -- mean low and mean high water line must be included in the plan. The mean low water must be the reference for water depths and land elevations (i.e., mean low water should be depicted as "Elevation 0.0 MLW"). First floor elevations relative to mean sea level must be shown for any proposed buildings.
  - (3) Location Map. A map of small scale showing the location of the proposed work is also required. The location map must provide adequate information to locate the project site.

- (4) Title of Drawing. Each drawing must have a simple title block to identify the project or work, and shall include name of applicant, date the plat was prepared, and scale of the plat. The date of any revisions must be clearly noted. The applicant must also include the name of the person who drew the plat.
- (c) Applications are often made for permits to authorize projects that have a portion of the development outside Areas of Environmental Concern. Some information concerning plans for development outside AECs is necessary to determine compatibility with the local Land Use Plan and to be reasonably sure that such development will not adversely impact AECs. Therefore, any application for a CAMA or Dredge and Fill permit shall include, at a minimum, the following information:
  - (1) detailed information on any development located in or directly impacting an AEC;
  - (2) a plat showing the entire tract of land to be developed and possible access or roadway locations;
  - maps or statements concerning the location of wetlands within the project area to the extent that a wetlands examination has been made by a private consultant or government agency. Each developer of a project is urged, for his own protection and planning, to procure such information prior to submission for a CAMA permit;
  - (4) a narrative description of the proposed development that shall include, at a minimum, the following information:
    - (A) the character of the development (i.e. residential, commercial, recreational, etc.);
    - (B) the maximum number of residential living units that will be permitted;
    - (C) the maximum acreage that will be utilized for non-residential purposes;
    - (D) a statement as to whether wastewater treatment is to be by municipal system, septic tank, or other on-site treatment system. A general description of any on-site treatment system shall be included;
    - (E) a statement that access, as required by all land use regulations, is available through the site to the Area of Environmental Concern without crossing any Section +404= wetland or, if such a crossing is required, a statement that said crossing is properly authorized. If the site contains significant wetlands, such statement may be required from a qualified private consultant or government agency, based on an examination of the property by such private consultant or government agency. The CAMA permit when issued may be conditioned upon the procurement of any required wetlands permit, if the need for such is disclosed by such statement;
  - any maps or plans that have been prepared to meet other regulatory requirements such as stormwater management and sedimentation and erosion control.

Following review of the permit application, including the aforementioned supporting data (Subparagraphs 1-5), a permit may be issued conditioned upon compliance with the development parameters provided in the narrative statement accompanying the application. Any subsequent violation of these narrative standards as incorporated within the permit shall be a permit violation. No subsequent permit, permit modification, or other agency approval shall be required for any subsequent work performed outside the Area of Environmental Concern as long as such work is within the parameters described in the narrative statement presented with the permit, and included in the permit conditions. Any subsequent change in the development which changes the parameters of the narrative, statement shall be submitted to the staff, but no new permit or permit modification shall be required unless staff finds that the changes would have reasonable expectation of adversely affecting an Area of Environmental Concern or rendering the project inconsistent with Local Land Use Plans. Nothing in this Rule would prohibit an applicant from proceeding with work outside an AEC that cannot reasonably be determined to have a direct adverse impact on the AEC while a permit application for work in the AEC is pending provided that all other necessary local, state, and federal permits have been obtained.

History Note: Authority G.S. 113A-119; 113A-124; Eff. March 15, 1978; Amended Eff. July 1, 1989.

## 15A NCAC 07J .0204 PROCESSING THE APPLICATION

- (a) On receipt of a CAMA major development and/or dredge and fill permit application by the Department, a letter shall be sent to the applicant acknowledging receipt.
- (b) Application processing shall begin when an application is accepted as complete. Before an application will be accepted as complete, the following requirements must be met;
  - (1) a current application form must be submitted;

- (2) all questions on the application form must be completed or the letters "N/A" must be placed in each section that does not apply:
- (3) an accurate work plan as described in 15A NCAC 7J .0203 herein must be attached to all CAMA major development and/or dredge and fill permit applications;
- (4) a copy of a deed or other instrument under which the applicant claims title must accompany a CAMA major development and/or dredge and fill permit application;
- (5) notice to adjacent riparian landowners must be given as follows:
  - (A) Certified return mail receipts (or copies thereof) indicating that adjacent riparian landowners (as identified in the permit application) have been sent a copy of the application for the proposed development must be included in a CAMA major development and/or dredge and fill permit application. Said landowners have 30 days from the date of notification in which to comment. Such comments will be considered by the Department in reaching a final decision on the application.
  - (B) For CAMA minor development permits, the applicant must give actual notice of his intention to develop his property and apply for a CAMA minor development permit to all adjacent riparian landowners. Actual notice can be given by sending a certified letter, informing the adjoining property owner in person or by telephone, or by using any other method which satisfies the Local Permit Officers that a good faith effort has been made to provide the required notice;
- (6) the application fee must be paid as set out in this Subparagraph:
  - (A) Major development permit Application fees shall be in the form of a check or money order payable to the Department. The application fee for private, non-commercial development shall be two hundred fifty dollars (\$250.00). The application fee for a public or commercial project shall be four hundred dollars (\$400.00).
  - (B) Minor development permit Application fees shall be in the form of a check or money order payable to the permit-letting agency in the amount of one hundred dollars (\$100.00). Monies so collected may be used only in the administration of the permit program;
- (7) any other information the Department or local permit officer deems necessary for a review of the application must be provided. Any application not in compliance with these requirements will be returned to the applicant along with a cover letter explaining the deficiencies of the application and will not be considered accepted until it is resubmitted and determined to be complete and sufficient. If a local permit officer receives an application for a permit that the local permit officer lacks authority to grant, the permit officer shall return the application with information as to how the application may be properly considered; and
- (8) for development proposals subject to review under the North Carolina Environmental Policy Act (NCEPA), G.S. 113A-100 et. seq., the permit application will be complete only on submission of the appropriate environmental assessment document.
- (c) Upon acceptance of a major development and/or dredge and fill permit as complete, the Department shall send a letter to the applicant setting forth the data on which acceptance was made.
- (d) If the application is found to be incomplete or inaccurate after processing has begun or if additional information from the applicant is necessary to adequately assess the project, the processing shall be terminated pending receipt of the necessary changes or necessary information from the applicant. During the pendency of any termination of processing, the permit processing period shall not run. If the changes or additional information significantly alters the project proposal, the application shall be considered new and the permit processing period will begin to run from that date.
- (e) Any violation occurring at a proposed project site for which an application is being reviewed shall be processed according to the procedures in 15A NCAC 7J .0408 0410. If the violation substantially altered the proposed project site, and restoration is deemed necessary, the applicant shall be notified that processing of the application will be suspended pending compliance with the notice of required restoration. Satisfactory restoration of any unauthorized development that has substantially altered a project site is deemed necessary to allow a complete review of the application and an accurate assessment of the project's potential impacts. The applicant shall be notified that permit processing has resumed, and that a new processing deadline has been established once the required restoration has been deemed satisfactory by the Division of Coastal Management or Local Permit Officer.
- (f) If during the public comment period a question is raised as to public rights of access across the subject property, the Division of Coastal Management shall examine the access issue prior to making a permit decision. Any individual or governmental entity initiating action to judicially recognize a public right of access must obtain a court order to suspend processing of the permit application. Should the parties to legal action resolve the issue, permit processing shall continue.

History Note: Authority G.S. 113-229; 113A-119; 113A-119.1; 113A-122(c); 113A-124;

Eff. March 15, 1978;

Amended Eff. November 1, 1991; March 1, 1991; July 1, 1990; July 1, 1989;

Temporary Amendment Eff. September 2, 1998; Temporary Amendment Expired June 28, 1999;

Amended Eff. August 1, 2000.

## 15A NCAC 07J .0205 ACCEPTANCE OF AN APPLICATION

History Note: Authority G.S. 113A-118(c); 113A-122(a);

Eff. March 15, 1978;

Amended Eff. August 1, 1983; May 1, 1983;

Repealed Eff. November 1, 1983.

## 15A NCAC 07J .0206 PUBLIC NOTICE OF THE PROPOSED DEVELOPMENT

Within a reasonable time after receiving an application for a major development permit, a significant modification to an application for a major permit, or an application to modify substantially a previously issued major permit, the Division of Coastal Management shall issue public notice of the proposed development as provided in G.S. 113A-119(b). Any citizen or group will, upon request, be promptly sent a copy of the application upon payment of a reasonable fee to cover costs of copying, handling, and posting.

History Note: Authority G.S. 113A-119(b);

Eff. March 15, 1978;

Amended Eff. January 1, 1990; October 1, 1988; November 1, 1983.

# 15A NCAC 07J .0207 AGENCY REVIEW/COMMENTS: MAJOR DEVELOPMENT/DREDGE AND FILL

- (a) In order to determine the impact of the proposed project, the Department shall prepare a field report on each major development and/or dredge and fill permit application accepted for processing. Such report shall be prepared after an on-site investigation is made, preferably in the presence of the applicant or his agent. The report will include such topics as project location, environmental setting, project description and probable environmental impact but will not include recommendations of the office.
- (b) The Department will circulate major development permit applications to the several state review agencies having expertise in the criteria enumerated in G.S. 113A-120.
- (c) The Department will circulate dredge and fill permit applications to the several state review agencies having expertise in those matters enumerated in G.S. 113-229(e) (1) (5).
- (d) Each reviewing agency may make an independent analysis of the application and submit recommendations and comments to the Department. Such recommendations and comments will be considered by the Department in taking action on a permit application.
- (e) Each reviewing agency may request additional information (including Stormwater Management Plans) from the applicant through the Division of Coastal Management if such information is deemed necessary for a thorough and complete review of the application. The applicant will be notified of the requirement for additional information and permit processing will be suspended according to 15A NCAC 7J .0204(d).
- (f) The Division of Coastal Management is one of the state agencies that comments on dredge and fill project applications. In its role as a commenting agency the Division will use criteria in 15A NCAC 7H and local land use plans to assess whether to recommend permit issuance, permit issuance with conditions, or permit denial. Other commenting state agencies will make assessments, in accordance with Paragraph (c) of this Rule.

*History Note:* Authority G.S. 113-229; 113A-124(a)(1);

Eff. March 15, 1978;

Amended Eff. July 1, 1989; October 1, 1988; September 1, 1985; November 1, 1984.

#### 15A NCAC 07J .0208 PERMIT CONDITIONS

- (a) Each of the several state review agencies may submit specific recommendations regarding the manner in which the requested work should be carried out and suggest reasonable limitations on the work in order to protect the public interest with respect to the factors enumerated in G.S. 113A-120 and/or G.S. 113-229(c). The several state review agencies also may submit specific recommendations regarding limitations to be placed on the operation and/or maintenance of the completed project, as necessary to ensure continued protection of the public interest with respect to those factors. Such limitations may be recommended by the Department or commission to be imposed on the project in the form of "permit conditions". Upon the failure of the applicant to appeal a permit condition, the applicant will be deemed to have amended his permit to conform to the conditions imposed by the Department. Compliance with operational and/or maintenance conditions must continue for the life of the project.
- (b) The local permit officer may condition a minor development permit upon amendment of the proposed project to take whatever measures may be reasonably necessary to protect the public interest with respect to the factors enumerated in G.S. 113A-120. The applicant must sign the conditioned grant as an indication of amendment of the proposed project in a manner consistent with the conditions set out by the local permit officer before the permit shall become effective.
- (c) Failure to comply with permit conditions constitutes a violation of an order of the Commission under G.S. 113A-126.

History Note: Authority G.S. 113A-120(b); 113A-124(a)(1); 113A-124(c)(5);

Eff. March 15, 1978;

Amended Eff. March 1, 1985; November 1, 1984.

## 15A NCAC 07J .0209 ISSUANCE OF PERMITS

- (a) The Commission hereby delegates to the department the authority to issue or deny CAMA permits. The decision to issue or deny the permit will be based on the applicable criteria set forth in G.S. 113A-120, the applicable standards for development set forth in 15A NCAC, Subchapters 7H and 7M, and any other applicable rules adopted by the Commission. The Department may condition issuance of permits on such conditions as are considered necessary to ensure compliance with the applicable criteria and standards. The Department's decisions to grant or deny CAMA permits may be appealed as provided in G.S. Chapter 150B, G.S. 113A-121.1, and 15A NCAC 7J Section .0300.
- (b) The Department will make a final decision with respect to a dredge and fill permit application as provided in G.S. 113-229(e) upon considering the field investigation report, the comments of all interested state agencies, the comments of adjacent riparian landowners and the comments of other interested parties. The Department's decisions to grant or deny dredge and fill permits may be appealed as provided in G.S. Chapter 150B, G.S. 113-229, and 15A NCAC 7J Section .1000. (c) In cities and counties that have developed local management programs, applications for minor development permits shall be considered by the local permit officer. The decision to issue or deny the permit will be based on the applicable criteria set forth in G.S. 113A-120, the applicable standards for development set forth in 15A NCAC, Subchapters 7H and 7M, and any other applicable rules adopted by the Commission. The local permit officer may condition issuance of a permit on such conditions as are considered necessary to ensure compliance with applicable criteria and standards. A city's or county's decision to grant or deny a CAMA minor development permit may be appealed as provided in G.S. Chapter 150B, G.S. 113A-121.1, and 15A NCAC 7J Section .0300.

History Note: Authority G.S. 113-229; 113A-118(c); 113A-122(c); 113A-124;

Eff. March 15, 1978;

Amended Eff. October 1, 1988; November 1, 1984; September 6, 1979; March 5, 1979.

#### 15A NCAC 07J .0210 REPLACEMENT OF EXISTING STRUCTURES

Replacement of structures damaged or destroyed by natural elements, fire or normal deterioration is considered development and requires CAMA permits. Replacement of structures shall be permitted if the replacements is consistent with current CRC rules. Repair of structures damaged by natural elements, fire or normal deterioration is not considered development and shall

not require CAMA permits. The CRC shall use the following criteria to determine whether proposed work is considered repair or replacement.

- (1) NON-WATER DEPENDENT STRUCTURES. Proposed work is considered replacement if the cost to do the work exceeds 50 percent of the market value of an existing structure immediately prior to the time of damage or the time of request. Market value and costs are determined as follows:
  - (a) Market value of the structure does not include the value of the land, value resulting from the location of the property, value of accessory structures, or value of other improvements located on the property. Market value of the structure shall be determined by the Division based upon information provided by the applicant using any of the following methods:
    - (i) appraisal;
    - (ii) replacement cost with depreciation for age of the structure and quality of construction; or
    - (iii) tax assessed value.
  - (b) The cost to do the work is the cost to return the structure to its pre-damaged condition, using labor and materials obtained at market prices, regardless of the actual cost incurred by the owner to restore the structure. It shall include the costs of construction necessary to comply with local and state building codes and any improvements that the owner chooses to construct. The cost shall be determined by the Division utilizing any or all of the following:
    - (i) an estimate provided by a North Carolina licensed contractor qualified by license to provide an estimate or bid with respect to the proposed work;
    - (ii) an insurance company's report itemizing the cost, excluding contents and accessory structures; or
    - (iii) an estimate provided by the local building inspections office.
- (2) WATER DEPENDENT STRUCTURES. The proposed work is considered replacement if it enlarges the existing structure. The proposed work is also considered replacement if:
  - in the case of fixed docks, piers, platforms, boathouses, boatlifts, and free standing moorings, more than 50 percent of the framing and structural components (beams, girders, joists, stringers, or pilings) must be rebuilt in order to restore the structure to its pre-damage condition. Water dependent structures that are structurally independent from the principal pier or dock, such as boatlifts or boathouses, are considered as separate structures for the purpose of this Rule;
  - (b) in the case of boat ramps and floating structures such as docks, piers, platforms, and modular floating systems, more than 50 percent of the square feet area of the structure must be rebuilt in order to restore the structure to its pre-damage condition;
  - in the case of bulkheads, seawalls, groins, breakwaters, and revetments, more than 50 percent of the linear footage of the structure must be rebuilt in order to restore the structure to its pre-damage condition.

History Note: Authority G.S. 113A-103(5)b.5.; 113A-107(a),(b); Eff. July 1, 1990; Amended Eff. August 1, 2007.

## 15A NCAC 07J .0211 NON-CONFORMING DEVELOPMENT

A non-conforming structure is any structure within an AEC other than Ocean Hazard and Inlet Hazard AECs that is inconsistent with current CRC rules, and, was built prior to the effective date(s) of the rule(s) with which it is inconsistent. Replacement of such structures shall be allowed when all of the following criteria are met:

- (1) the structure will not be enlarged beyond its original dimensions;
- (2) the structure will serve the same or similar use;
- (3) there are no practical alternatives for replacing the structure to provide the same or similar benefits in compliance with current rules; and
- (4) the structure will be rebuilt so as to comply with current rules to the maximum extent possible.

History Note: Authority G.S. 113A-107(a),(b); Eff. July 1, 1990; Amended Eff. December 1, 1991.